



Submission to the Northern Territory Legislative Assembly Inquiry into Local Decision Making

Formally endorsed at a Special Meeting of the East Arnhem Regional Council on 30 July 2021
with final approval by the Council President

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The East Arnhem Regional Council is comprised of a total of up to 126 Members across 9 Local Authorities, which include 14 Councillors elected from 6 cultural based electoral wards, that are all connected through song lines, bloodlines, ceremony and family, to represent over 10,000 people, with an Aboriginal population over 90 per cent.

East Arnhem Regional Council has formally consulted and gained input from the 9 Local Authorities of East Arnhem Land and then considered, developed and endorsed this formal Submission to the Inquiry into Local Decision Making.

As an Aboriginal Community Controlled Local Government, the East Arnhem Regional Council is committed to play a positive role in working with the Northern Territory Government's Local Decision Making Policy Framework – on how to effectively engage with and include all traditional based structures and other Aboriginal organisations – and all community and homeland members, to support greater Indigenous empowerment across East Arnhem Land.

East Arnhem Regional Council has advocated for and gained unanimous support across all 537 Local Governments across the nation to recognise the legitimate role and voice of all Aboriginal Community Controlled Councils. Council and the Australian Local Government Association are in the process of gaining formal recognition of the role of Aboriginal Community Controlled Local Government Councils with the Australian and respective State and Territory Governments.

There have been two main agreements made with the Northern Territory Government, in the name of Local Decision Making in the East Arnhem Region, that affect all 9 communities in the region. They are the:

1. Yolngu Region Local Decision Making Partnership Commitment

2. Groote Archipelago Local Decision Making Agreement

1. Yolngu Region Local Decision Making Partnership Commitment

There is significant work ahead to actually achieve the objectives and commitments of the Yolngu Region Local Decision Making Partnership Commitment.

With the impact of Covid-19, the planned Regional Local Decision-Making Forum was cancelled, and a series of smaller Workshops in different parts of the Yolngu region planned, to try and begin building awareness of Local Decision Making. With only one initial workshop held, and another interrupted half way through by sorry business – the Local Decision Making consultation process has just begun.

The Yolngu Region Local Decision Making Partnership Commitment includes the key Commitments:

“4. (a) The parties to this Partnership Commitment agree to work collaboratively through the Working Group to:

- (i) Explore existing Yolngu and Balanda governance decision making systems across the Yolngu Matha speaking region of East Arnhem and assess their strengths and weaknesses.*
- (ii) Collectively engage with Yolngu leaders across the region’s communities and homelands about the effectiveness of current governance and decision making arrangements.*
- (iii) Explore opportunities and the necessary changes to simplify and strengthen decision making (governance) and engagement across the Yolngu region.*

(This approach is in full alignment of the principle of the Indigenous Voice of:

“Non-duplication and Links to Existing Bodies. Voice structures build on and leverage existing approaches wherever possible, with some adaptation and evolution as needed to improve the arrangements. Voices will link to other existing bodies, not duplicate or undermine their roles.”)

These remain important key tasks that are only in there very early stages.

An essential key step to achieving progress will be to ensure a unified and clear communication with community and homeland members of the respective roles of the two levels of western (Balanda) Government and the Aboriginal Community Controlled Local Government, and their relationship with each other.

This needs to include clear recognition that Local Authorities have a legislated role and responsibility in local decision making:

“to allow local communities a voice in the formulation of policies for the locality as well as policies for the area and the region” and “to take the views of local communities back to the council and act as advocates on their behalf.”

In addition to this the Regional Council, like all regional councils in the Northern Territory, has a legislated role and responsibility:

“to play a broad role in promoting the social, economic, environmental, and cultural well-being of their local communities.” and;

“to be responsive to the needs, interests and aspirations of individuals and groups within its area” and “to cooperate with Territory and national governments in the delivery of services for the benefit of its area.”

Local Authorities since their introduction in 2014, that followed the Community Advisory Boards created in 2008 as a key part of the shift to Regional Councils, that in turn carried on the role of Community Councils, are already doing Local Decision Making, and serving as the voice for the people on a wide range of issues.

To achieve Local Decision Making the two Balanda levels of Government, the Northern Territory and Australian Governments need to listen more to the voice of the communities and homelands and the many issues they raise - and act.

Need for Review and Alignment of LDM

Community members regularly raise the problem of confusion with having to deal with separate and unlinked processes of LDM, Indigenous Voice, and Empowered Communities, as well as Treaty.

The NT Local Decision Making Framework Policy and Agreements, needs to be reviewed to be in line with the updated National Agreement on Closing the Gap and, the Principles-based Framework for the Local, Regional and National Indigenous Voice. Even if the Indigenous Voice is not officially approved, alignment with its Framework and Principles should still occur, to ensure the most comprehensive, collaborative and effective approach is taken.

The need for the review and alignment of the Local Decision Making Framework Policy with Closing the Gap and the Indigenous Voice process, has been unanimously supported by all 17 member Councils of the Local Government Association of the Northern Territory (LGANT).

Council will continue to work with the National Indigenous Advancement Agency in its engagement with the Northern Territory Government, to slow down, that is, put on hold the

NT LDM Policy Framework and Agreements, to ensure proper alignment with the emerging Australian Government approach, which will also properly recognise the role of Aboriginal Controlled Councils, and all other Aboriginal Organisations, Traditional Owners and the Northern Land Council.

East Arnhem Regional Council has nominated the East Arnhem region as one of the Indigenous Voice Regions across Australia, for approval by the Australian Government. An East Arnhem wide Local and Regional Voice structure will ensure the capacity, sustainability and sound governance required to support the realisation of the principles, policy framework and objectives of the Local, Regional and National Voice, and Local Decision Making.

East Arnhem Regional Council has formally committed to continue as a partner to the Yolngu LDM Partnership agreement, which actually lapsed in May 2021. Council is also willing to provide effective secretariat and logistical support across the region to the Local Decision Making process, that we understand is difficult to provide from the small regional office of the Department of the Chief Minister and Cabinet.

This may well assist greater engagement of other Aboriginal organisations that have been part of the LDM development process, and the greater number of Aboriginal organisations that have not.

It may well also be valuable to select one or two key issues for all stakeholders to focus on through the Local Decision Making / Indigenous Voice process. This could help build a united approach between various community based organisations, Clan Leaders, Traditional Owners, different government departments and services.

One significant issue that would be valuable to tackle together is youth justice - how to shift current judicial and sentencing practices and engage Clan Leaders, Traditional Owners and families to provide consequences and support for young people – outside of the western justice system.

Another important issue which requires genuine and meaningful engagement and direction from all affected communities and homelands across East Arnhem Land as to how they want to deal with it – is the impending re-introduction of the legal sale of kava.

2. Groote Archipelago Local Decision Making Agreement

The Groote Archipelago Local Decision Making Agreement made between the Northern Territory Government and the Anindilyakwa Land Council has many worthwhile goals, ranging from advancement of health, education, housing, youth justice and economic development.

The in-principle commitment to the creation of a separate Anindilyakwa Local Government through the de-amalgamation of the East Arnhem Regional Council, however, has been made without proper recognition of why and how the regional council was formed in the first place, and the general Local Decision Making principle to build on existing structures.

The Groote Archipelago Local Decision Making Agreement includes a statement that:

The Northern Territory Government decision to support the ALC proposed outcome is based on a common understanding that in the establishment of the Shires during the 2008 local government reforms, a Shire (or Regional Local Government Council) could have been established to match the ALC Groote Archipelago geographic area given the Anindilyakwa cultural boundaries and island (or geographic) nature of the Archipelago.” (page 25 GALDMA)

What is not acknowledged in the Groote Archipelago Local Decision Making Agreement or by its parties, is that the Northern Territory Local Government Advisory Board, Chaired by Independent Chair Patrick Dodson, with the support of the Department of Local Government and its CEO, advised the Minister for Local Government in July 2007 after six months of thorough consultation and assessment regarding:

“That Groote Eylandt should be formed as a stand-alone shire council, separate from the East Arnhem Shire” that this should not occur.

Advisory Board advice to you in relation to this issue:

No change. The final boundaries should reflect the indicative Local Government Boundaries.

Basis of advice

All matters outlined in 2.1 to 2.14 of the Board’s Terms of Reference were taken into account, with the specific consideration of:

- *The establishment of wards to ensure appropriate elected representation;*
- *The establishment of local boards to ensure appropriate community participation; and*
- *The long-term sustainability and viability of shires.”*

The viability and sustainability of a possible new separate local government for the 1450 (claimed to be 2,000) people of the Groote Archipelago has only weakened further over the last 13 years, given the notable increase in the level of complexity of service delivery and reporting standards, for the range of core local government and other community services provided, ranging from waste management to children and aged and disability services.

The stated plan of the ALC through LDM now is to actually move as soon as possible from control of Local Government in the Groote Archipelago to the creation of a Regional Authority that would control all Local Government, Northern Territory and Australian Government Services.

This magnifies the major issues and concerns of the service and governance capacity and sustainability of a local entity, of a population of less than 1500 people, and the high risk of service and governance failure, and the significant negative impact on community members that would have.

Need to Assess Viability and Sustainability

The Groote Archipelago Local Decision Making Agreement commitment to the creation of a separate Local Government for the Archipelago, is only in-principle, and its consists almost entirely of conditions that would need to be met for it to actually be approved.

The agreement states that there is a “need to undertake a detailed assessment and analysis of important considerations for both the NT Government, the ALC and other stakeholders. Central to these conditions is the “future viability of each of the East Arnhem Regional Council and a newly formed Regional Council” and “ensuring the financial sustainability of the East Arnhem Regional Council.”

Council continues to contribute to the thorough assessment of all these conditions, and the significant issues and concerns identified in the original Assessment and Analysis Report in December 2019, and the two subsequent versions of the updated Financial Assessment Report that have followed.

Council is pleased that the Northern Territory Government has now accepted the unanimous resolution of all 17 Local Governments Councils in the NT through LGANT, that there also needs to be an Independent Assessment of an updated Financial Assessment Report, with a thorough Terms of Reference that addresses all the issues regarding the viability and sustainability of a prospective and any remaining Council.

The local member for Arnhem who is also the Minister for Local Decision Making, nonetheless, continues to publicly advocate that the de-amalgamation should occur, despite major issues and concerns being identified in the original Assessment and Analysis Report in December 2019, and the two versions of the following Financial Assessment Report, and before any independent assessment has been completed, or even started.

The outcome of the independent assessment needs to be fully shared with all community and homeland members of the Anindilyakwa and Yolngu communities, who all stand to be affected by any de-amalgamation if it is to occur. This will be the first time that the people have been informed of the real issues and impact of the proposal, and so sufficient time needs to be given to the process, and there needs to be proper opportunity for discussion and understanding, beyond ‘megaphone’ diplomacy.

This is particularly important in the Groote Archipelago where many community members have expressed they feel intimidated at meetings where the ALC Chairman speaks very forcefully.

A number of ALC Board Members, other traditional owners and community and homeland members of the Groote Archipelago have also expressed concern with the current level of control of the ALC ranging from the direct distribution of royalties, and the range of projects and programs it runs.

To ensure a real and genuine voice for all Yolngu and Anindilyakwa Yolngu, who stand to be affected by the Local Government part of this Local Decision Making Agreement, there is a need for an independent poll to be conducted of all Anindilyakwa and Yolngu people.

The good governance of East Arnhem Regional Council includes continuation and development of collaboration and partnerships with the ALC, as it does with other important organisations in the Groote Archipelago and across the region – for the benefit of all community and homeland members.

East Arnhem Regional Council also maintains its offer to the Anindilyakwa Land Council to continue its work for a shared way forward with the ALC and other important Anindilyakwa based Aboriginal organisations, through holding more joint Anindilyakwa Local Authority meetings, inviting ALC representatives to these meetings, and working for the many worthwhile other objectives of the Groote Archipelago Local Decision Making Agreement, that range from health and education to law and justice and economic development.

This offer has been formally rejected by the ALC Chairman, but remains open to the ALC and Northern Territory Government to consider, to support the range of important Local Decision Making objectives in the Groote Archipelago Agreement.

Overview

At the broadest level, the process of developing two major separate LDM agreements in the East Arnhem region, splitting the East Arnhem Region into two, was led by the Northern Territory Government Department of the Chief Minister, the Local Decision Making Minister and one particular organisation in the Groote Archipelago.

The East Arnhem region has a range of traditional based authority structures within it. These include the ‘Dilak’, ‘Yolngu Nations’, ‘Bapurru’, amongst others for the Yolngu people, and various clan and traditional owner alliances of the Anindilyakwa people, with cultural links to the Yolngu and other mainland communities.

There is also a wide range of Aboriginal controlled corporations and organisations that link with, and also diverge from the cultural authority structures. These include the Rirratjingu Aboriginal Corporation, Gumatj Corporation, YBE/NEAL Miwatj Health, Yothu Yindi Foundation, Homelands Organisations, Yalu, ALPA, Gongdal, Aminjarrinja, GEBIE, GEAT, the ALC and many more.

The number and diversity of both traditional Aboriginal authority structures, corporations and organisations represents both an opportunity and challenge in supporting stronger Local Decision Making.

There are extremely strong and deep cultural ties and connections between us Anindilyakwa and Yolngu people, and much to be gained from further strengthening our united voice and capacity for it to be genuinely heard through Local Decision Making and the Indigenous Voice - for all communities and homelands across East Arnhem Land.

Direct Voice of Councillors

Statements made at the 30 July Special Council Meeting that considered, developed and endorsed Council's formal Submission

"We know where we stand, no-one can break that."

"We are connected, Yolngu and Anindilyakwa Yolngu, through songlines, bloodlines, ceremony and family."

"It's in our blood, Dhuwa and Yirritja."

"It's not about Aboriginal, we would like to build an alliance with Balanda (non-Indigenous people)"

"The confusion needs to stop."

"We are cultural people. We need to target the heart, to come together and build a better future for our nationhood."

"We will continue the momentum. They need to listen."

Direct Voice of Local Authority Members

Statements made in Local Authority Meetings that considered and provided their input to the formal Council Submission

Ramingining

Support points made.

Support an open and inclusive approach.

Milingimbi

Support position put.

We are stronger with Yolngu and Balanda working together, hand in hand, with Council.

Need a Makarata, a new beginning and new hope, a breakthrough of freedom, where all people come together.

Galiwinku

Agree with all issues raised.

Would rather rise and walk with our people, then run a race to work together.

Our voice is being bounded together.

Gapuwiyak

Start with the Chief Minister's Department.

Balanda taking advantage of Yolngu organisations.

Funding people and conquering.

All the organisations should be working together.

Work for one community.

Chief Ministers picking out who to work with and who not.

Already making local decisions, like direction on Centrelink today.

Need to put the politics aside.

Agree on all issues raised.

Yirrkala

Agree with the points made.

Is confusing. The Voice has come.

Is a lot of processes like Empowered Communities.

The Voice should go to the Shire.

The Prime Minister and Cabinet Department aren't involved.

Do have a Yolngu voice.

Good to present how Council works, how Yolngu Government works.

Our words represent the song lines, Bapirru, need to explain this to politicians

Gunyangara

Need Yolngu Voice from each local area.

Local decisions have to be backed up by facts, arguments, proper proposed projects, to do what the community needs.

Otherwise projects won't work in the end.

The vision should go to the Shire based on the facts.

Already making local decisions, between Gumatj, Marngarr and the Shire.

The voice can be in the middle between all levels of government.

Asking the questions of the NT and Australian Governments.

To set up the umbrella, to get us out of the rain.

Is good to all be together. Can all work together.

The Chairperson in each region is the voice to the Shire office, then to the NT and Federal.

Get questions and answers from the Regional Council.

Milyakburra

Support comments made about concerns with the proposed de-amalgamation of Council.

We trust Council, we want to stay together.

Umbakumba

Jumped in too far, without knowing the consequences. There could have been better options.

The Groote Agreement was made without consultation with the people, just a few people at the top. Just pushing it, regardless of the consequences.

Support the local voice linking with the LDM.

Some of the decisions made are made to the detriment of the people, with not knowing the consequences.

There's disrespect of the local structures.

A lot of jobs will be lost.

LAs have a role already.

On Groote Eylandt the whole community is going to be worse off, less money less spending, less voice.

Only some families will benefit.

It'll be a dictatorship.

A classic example is the social program that has gone backwards.

A lot of people are scared to talk.

Angurugu

We need to keep working together, and Council to continue here.

With Local Decision Making the factions will break away from the Local Authority and Council.

We will keep talking to the community members.

Our thoughts go straight to Council and they listen.

Permission is given by East Arnhem Regional Council to make this Submission Public